



[7590-01-P]

NUCLEAR REGULATORY COMMISSION

[NRC-2014-0021]

Corrective Action Programs for Fuel Cycle Facilities

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft regulatory guide; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment draft regulatory guide (DG), DG-3044, "Corrective Action Programs for Fuel Cycle Facilities." This DG describes methods and procedures that the NRC staff considers acceptable when developing corrective action programs (CAPs) for fuel cycle facilities.

DATES: Submit comments by **[INSERT DATE 30 DAYS FROM THE DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

ADDRESSES: You may submit comments by the following methods (unless this document describes a different method for submitting comments on a specific subject):

- **Federal Rulemaking Web site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2014-0021**. Address questions about NRC dockets to Carol Gallagher; telephone: 301-287-3422; e-mail: Carol.Gallagher@nrc.gov. For technical questions, contact the individuals listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **Mail comments to:** Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: 3WFN 06A-A44M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

For additional direction on accessing information and submitting comments, see “Accessing Information and Submitting Comments” in the SUPPLEMENTARY INFORMATION section of this document.

FOR FURTHER INFORMATION CONTACT: Sabrina Atack, Office of Nuclear Material Safety and Safeguards, telephone: 301-287-9075, e-mail: Sabrina.Atack@nrc.gov; or Steve Burton, Office of Nuclear Regulatory Research, telephone: 301-415-7000, e-mail: Stephen.Burton@nrc.gov; U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

SUPPLEMENTARY INFORMATION:

I. Accessing Information and Submitting Comments.

A. Accessing Information

Please refer to Docket ID **NRC-2014-0021** when contacting the NRC about the availability of information regarding this document. You may access publicly-available information related to this action by the following methods:

- **Federal Rulemaking Web site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2014-0021**.

- **NRC's Agencywide Documents Access and Management System (ADAMS):**
You may access publicly available documents online in the NRC Library at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "[ADAMS Public Documents](#)" and then select "[Begin Web-based ADAMS Search](#)." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdresource@nrc.gov. The DG and regulatory analysis are available electronically in ADAMS under Accession Nos. ML13219B204 and ML13219B210.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

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B. Submitting Comments

Please include Docket ID **NRC-2014-0021** in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <http://www.regulations.gov> as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Additional Information.

The NRC is issuing for public comment a draft guide in the NRC's "Regulatory Guide" series. This series was developed to describe and make available to the public such information as methods that are acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the NRC staff needs in its review of applications for permits and licenses.

The DG, entitled, "Corrective Action Programs for Fuel Cycle Facilities," is temporarily identified by its task number, DG-3044. Draft Guide-3044 is proposed Revision 0 of new Regulatory Guide 3.75.

This DG describes methods and procedures that the NRC staff considers acceptable when developing CAPs for fuel cycle facilities.

III. Backfitting and Issue Finality.

This DG describes programmatic elements that the NRC staff considers acceptable for CAPs for fuel cycle facilities licensed under parts 40 or 70 of Title 10 of the *Code of Federal Regulations* (10 CFR) and gaseous diffusion plants under 10 CFR part 76. Applicants for such facilities and certificates of compliance, as well as existing licensees and holders of certificate of

compliance, may use the guidance in the DG, if finalized, in developing, implementing or revising CAPs. Licensees may choose to develop and implement CAPs that meet the guidance in this DG for the purpose of applying Section 2.3.2 of the NRC Enforcement Policy. The NRC staff may find methods or solutions that differ from those described in this DG acceptable for the purpose of applying Section 2.3.2 of the NRC Enforcement Policy if those methods or solutions effectively implement controls to identify, document, and correct conditions adverse to safety and security.

Applicants for, and holders of fuel cycle licenses under 10 CFR part 40 are not subject to backfitting protection, inasmuch as the NRC's regulations do not provide backfitting protection to 10 CFR part 40 applicants or licensees.

This DG, if finalized, would not constitute backfitting for any fuel cycle facility applicants or licensees subject to backfitting protection under 10 CFR part 70, or applicants for or holders of certificates of compliance for gaseous diffusion plants under 10 CFR part 76. No 10 CFR part 70 licensee or holder of a 10 CFR part 76 certificates of compliance is required to comply with the guidance, and a licensee or holder of a certificate of compliance is free to demonstrate that its corrective action program is effective in identifying, documenting, and correcting conditions adverse to safety and security in order to be within the purview of Section 2.3.2 of the NRC Enforcement Policy. With respect to applicants or potential applicants for 10 CFR part 70 licenses and 10 CFR part 76 certificates of compliance, such entities are not protected by the backfitting provisions in 10 CFR parts 70 and 76. Backfitting is intended to protect the reasonable expectations of certain entities who have received NRC regulatory approvals (e.g., a license), and was not intended to apply to NRC actions which substantially change the expectations of current and future applicants.

This DG, if finalized, would not apply to any nuclear power reactors subject to 10 CFR parts 50 or 52. Therefore, backfitting considerations under 10 CFR 50.109 or issue finality considerations under 10 CFR part 52 are not applicable to this DG.

Dated at Rockville, Maryland, this 6th day of February, 2014.

For the Nuclear Regulatory Commission.

Thomas H. Boyce, Chief,
Regulatory Guidance and Generic Issues Branch,
Division of Engineering,
Office of Nuclear Regulatory Research.

[FR Doc. 2014-03012 Filed 02/11/2014 at 8:45 am; Publication Date: 02/12/2014]